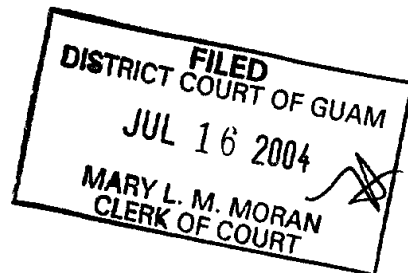


1 Tony H. Ashtiani  
P.O.Box 12723  
2 Tamuning Guam 96931  
671-688-4844  
3 671-653-5575



4 **UNITED STATES DISTRICT COURT**

5 **DISTRICT OF GUAM**

6 **Tony H. Ashtiani,**

7 Plaintiff,

8 Vs.

9 **Continental Micronesia Inc,**

10 **DbA, Continental Micronesia,**

11 **Continental Airlines,**

12 Defendant  
13  
14

)  
)  
) Civil Case No.: 02-00032  
)  
)  
)

) **DECLARATION OF TONY H. ASHTIANI**  
) **IN SUPPORT OF MOTION.**

) **LOCAL RULE 37.1**  
)  
)  
)  
)

15  
16 Prior to filing this Motion, Plaintiff in good faith effort  
17 has attempted to resolve this matter with opponent prior to  
18 bringing this Motion.  
19

20 1. On March 17 2004 @ 1:00 P.M. I contacted Ms. McDonald  
21 regarding discovery request and pointed out my obligation to  
22 confer imposed by Rule 37(a) of the Federal Rules. ("Courts held  
23 that telephone conferences satisfy the requirements of the Local  
24 Rules of practice and the Federal Rules of Civil Procedure").  
25 See, e.g., Ballou v. University of Kansas Medical Center, 159  
F.R.D. 558, 560 (D.Kan. 1994).

ORIGINAL

1           2. On March 17<sup>th</sup> 2004. @ 4:37 P.M I served Defense counsel  
2 with a letter Re: Meet and Confer. EXHIBIT A.

3  
4           3. On March 18<sup>th</sup> 2004 @ 1:20 P.M . Ms. McDonald had no  
5 documents and my request was forwarded to Mr. Ledger.

6  
7           4. On March 19<sup>th</sup> 2004 @ 3:00 P.M. I received a call from  
8 Mr. Ledger requesting a meeting to discuss discovery requests.

9  
10          5. On March 22<sup>nd</sup> 2004 @ 10:30 A.M. Mr. Ledger and I met at  
11 his office and "by the end of the meeting" no documents were  
12 produced.

13  
14          6. On March 30<sup>th</sup> 2004 @ 9:26 A.M Defense counsel and I  
15 spoke on the phone and no documents were available.

16  
17          7. On April 2<sup>nd</sup> 2004 @ 11:50 A.M Defense counsel and I  
18 spoke on the phone and Defense counsel has no document in his  
19 possession to comply with the Court Orders.

20  
21          8. On April 19<sup>th</sup> 2004 @ 10:00 A.M I met with Defense  
22 counsel at Carlsmith to pick up discovery documents, I noticed  
23 that request 7(b) and 24 were not included and counsel  
24 confirmed, agreed and signed my hand written note. Motion at 7  
25 line 21.

1           9. On April 21<sup>st</sup> 2004 @ 12:30 P.M I served a letter to  
2 Carlsmith reference request 7(b) and 24. EXHIBIT B.

3  
4           10. On April 21<sup>st</sup> 2004 @ 12:30 P.M I was also cross served  
5 with a letter in regards to requests 7(b) and 24. EXHIBIT C.

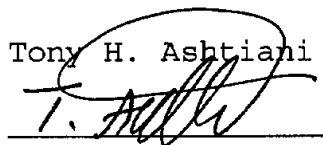
6  
7           11. On July 13<sup>th</sup> 2004 @ 1:20 P.M I contacted Defense  
8 counsel requesting a stipulation regarding request 7(b) and 24  
9 and he stated that documents does not exists or were produced. I  
10 reminded counsel of my many attempts in the past regarding same.

11  
12           12. Plaintiff asserts that these documents have essential  
13 and evidentiary value as to continuation allegation of defendant  
14 claim and defenses in Defendant's Motion for Summary Judgment.

15  
16           I declare under penalty of perjury that the forgoing is  
17 true and correct and if called as witness to testify in this  
18 matter, I could and would competently testify to each of these  
19 facts.

20  
21 Dated: This 16<sup>th</sup> day of July 2004. Executed in Hagatna, Guam.

22  
23 Tony H. Ashtiani

24   
25 Pro se, Plaintiff

Tony H. Ashtiani  
P.O.Box 12723  
Tamuning Guam 96931  
TEL/FAX 1-(671) 653-5575  
CELL 1-(671) 688-4844

March 17, 2004.

**CARLSMITH BALL LLP**  
Attorney Mr. Ledger and Ms. McDonald  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagatna, Guam 96932-5027

In District Court of Guam CV. 02-00032

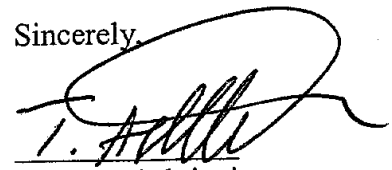
Re: Meet and Confer

Dear Attorney Ms. McDonald.

This letter is a follow up on our telephone conversation on March 17, 2004 at 1:00 P.M. which fulfilled my obligation imposed by Rule 37(a) of the Federal Rules, that included our meet and confer requirement. There has been ample time for defendant to comply with requested discovery since November 24, 2003 and December 10, 2003 Orders by the Court. However, I will be more than happy to cooperate if defendant has all the requested documents in good faith by tomorrow (March 18, 2004 @ 1:00 P.M) served directly.

Further more, I had provided a reasonable good faith settlement proposal letter to your office which I have not yet received a reply.

Sincerely,

  
Tony H. Ashtiani

**CARLSMITH BALL**

Date:

3/17/04

Time:

4:37 pm

By: 

Tony H. Ashtiani  
P.O.Box 12723  
Tamuning Guam 96931  
TEL/FAX 1-(671) 653-5575  
CELL 1-(671) 688-4844

RECEIVED  
CARLSMITH BALL  
Date: 04/21/2004  
Time: 12:33 PM

April 21, 2004

**CARLSMITH BALL LLP**  
Attorney Mr. Ledger  
Bank of Hawaii Bldg., Suite 401  
134 West Soledad Avenue  
Hagatna, Guam 96932-5027

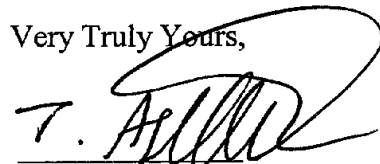
**In District Court of Guam CV. 02-00032**

Dear Mr. Ledger

This letter is a follow up that on April 19<sup>th</sup> 2004 CMI had produced some documents allegedly in compliance with Court Order dated November 24, 2003 and December 10, 2003. Granting motion to compel, we both agreed and signed that Requests # 7(b) and (24) were not included in bate-stamped numbered 01385 through 01448 and documents pertaining to above mentioned requests were not produced by CMI.

Rule 26(e) of the Fed R. Civ. P. states "this information shall be disclosed by the time the party's disclosures under rule 26(a)(3) are due". These documents were due on February 20<sup>th</sup> 2004 as per the Scheduling Order prior to being vacated On February 26<sup>th</sup> 2004.

Very Truly Yours,

  
Tony H. Ashtiani

# CARLSMITH BALL LLP

A LIMITED LIABILITY LAW PARTNERSHIP

BANK OF HAWAII BLDG., SUITE 401  
134 WEST SOLEDAD AVENUE, P.O. BOX BF  
HAGÁTÑA, GUAM 96932-5027  
TELEPHONE 671.472.6813 FAX 671.477.4375  
WWW.CARLSMITH.COM

DIRECT DIAL NO.  
X302

DLEDGER@CARLSMITH.COM

OUR REFERENCE NO.:  
013280-00079

T. ASHTIANI  
1. AMU  
APRIL 21, 2004  
12:33 PM

April 21, 2004

**VIA FACSIMILE [653-5575]**  
**AND HAND DELIVERY**

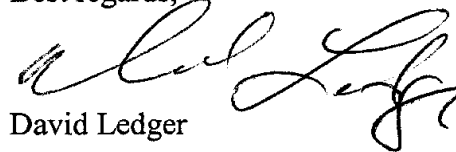
Mr. Tony H. Ashtiani  
Post Office Box 12723  
Tamuning, Guam 96931

Re: Continental Micronesia, Inc.-Tony H. Ashtiani

Dear Mr. Ashtiani:

Regarding recently produced documents and in response to the comments you made during our meeting on April 19, 2004 during which I produced documents, Continental has confirmed to me that no documents exist which are responsive to Request to Produce 7(b). Documents responsive to Request No. 24 begin with the page stamped No. 1416. As I recall those documents were at the bottom of the stack.

Best regards,



David Ledger

DPL/jmcb  
4815-2021-1200.1.013280-00079

EXH. "C"